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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/904,741	07/13/2001	Ronald G. Brock SR.	37180.0100	3364

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GREENBERG TRAURIG LLP  
2450 COLORADO AVENUE, SUITE 400E  
SANTA MONICA, CA 90404

EXAMINER
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MILEF, ELDA G

ART UNIT	PAPER NUMBER
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3628

DATE MAILED: 08/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/904,741	<b>Applicant(s)</b> BROCK, RONALD G.	
	<b>Examiner</b> Elda Milef	<b>Art Unit</b> 3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 5/12/2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) 5, 18-40 and 46-50 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-17, 41-45, and 51-56 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/13/2001</u> . | 6) <input type="checkbox"/> Other: _____  |

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**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election of species of Figure 3, claims 1-4, 6-17, 41-45, 51-56 in the reply filed on 3/23/2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2, 4, 41, 54-56 are rejected under 35 U.S.C. 102(b) as being anticipated by Dugan (US Patent No. 5,857,174).

**Re claim 1:** Dugan discloses:

a real estate database storing data for each of said plurality of real estate properties, said data comprising at least one of address data, ownership data, physical

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characteristics data, size data, geographic location data and monetary value data ("The AI system obtains sales data from a national database...analysis of public records data, recent sales, other proprietary information...")-see col. 2, lines 34-39; and ("The processor 12 is connected to a database 24. In the preferred embodiment, database 24 is a national database that provides sales data for real estate.")-see col. 6, lines 21-23, col. 4 lines 44-48, cols. 6-8;

an interface system for enabling a system user to input a request for a comparison of at least a portion of said data of said at least two of said plurality of real estate properties, said request comprising information sufficient to identify said at least two of said plurality of real estate properties ("Another object of the invention is provide an appraisal method that is implemented on a computer and can be interfaced with standard databases providing sales data...")-see col. 4, lines 44-48, and cols. 6-8;

a processor which uses said information to obtain said comparison of at least a portion of said data of said at least two of said plurality of real estate properties ("The system and method of the present invention is implemented by computer software which permits the accessing of data from the computer

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database 24. The software is preferably stored within processor 12..."-see col. 6 lines 45-65, col. 7 line 65-col. 8, line 10;

and a delivery system for providing to said system user said comparison of at least a portion of said data of said at least two of said plurality of real estate properties ("Once a request is received by the database 24, the records stored in the database 24 are searched, step 46. The results of the search are then transmitted from the database 24 back to processor 12, where they are received and displayed on monitor 14, step 48.")-see col. 8, lines 11-15.

**Re claim 2:** Dugan discloses:

an input system configured to permit the inputting of real estate property data into said database.-see col. 6, lines 39-44 and col. 9, lines 10-19.

**Re claims 4:** Dugan discloses:

wherein said processor is configured to provide a physical rating for each of said at least two of said plurality of real estate properties ("As shown in FIG. 2...respective points that may be assigned under the Ideal Point System (IPS)...The weights or preferences are preferable arranged into five categories 110, including Location 112, Neighborhood114, Facilities 116, Improvements 118, and Utility and Appeal 120..."see col. 7, line 9-col. 8, line 55; col. 10 lines 13-21; Figs. 6a-6m.

**Re claims 41:** Dugan discloses a system for providing a physical and location rating of real estate property, said system comprising:

a database storing: a plurality of physical factors for each of a plurality of real estate properties, a weight indicator associated with each of said plurality of physical factors-see fig. 1, col. 6;

a factor score associated with each of said plurality of physical factors-see col. 7 lines 14-40 ;

an interface system for enabling a user to input a request for a physical rating for one of said plurality of real estate properties, said request comprising information sufficient to identify said one of said plurality of real estate properties in said database -see col.8 lines 11-60;

a processor which uses said information to obtain a physical rating for said one of said plurality of real estate properties-see col. 6-col. 8 line 60;

a delivery system for providing said physical rating to said user-see col. 11 lines 54-67, fig. 6m, fig.1.

**Claim 54** has similar limitations found in claim 41 above, and therefore is rejected by the same art and rationale.

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**Re claims 55 and 56:** Dugan discloses wherein said plurality of factors is a plurality of physical and location factors. -see Figs. 6a, 6c, 6e, 6g, and col. 7 lines 14-33.

3. Claim 6, 9-11, 51-53 are rejected under 35 U.S.C. 102(b) as being anticipated by Apgar (US Patent No. 5,680,305).

**Re claim 6:** Apgar discloses:

selecting a plurality of physical factors generally associated with real estate properties of a type similar to that of the subject real estate property- ("Amount is an indicator of space utilization")-see col. 7, lines 15-23, ("Grade is an indicator of the quality of facility.")-see col. 11, lines 21-30, ("In order to provide an evaluation of the real estate, information about similar business entities and properties is needed.")-see col. 6, lines 23-24;

attributing a weight indicator having a numerical representation to each of said plurality of physical factors ("The assigned scores for the first and second amount indicators are adjusted by weighting factors.")-see col. 8, lines 44-45; cols. 7-8; and ("'Weighting Factor' is used to denote an

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empirically determined adjustment for each indicator component...")-see col. 2, line 67-col. 3, line 1.

evaluating each of said plurality of physical factors and attributing to said each of said plurality of physical factors a factor score ("Preferably, each of the five indicators is scaled for a total potential score of 10")-see col. 7, lines 3-5, and ("the total amount indicator is broken into a first and second amount indicator...the numerical representation of a medium score is assigned to the first amount indicator...a numerical representation of a low score is assigned to the second amount indicator...")-see col. 7, 35-col. 8, line 30;

obtaining a total weighted score based on said plurality of factor scores ("The assigned scores for the first and second amount indicators are adjusted by weighting factors. The adjusted first and second amount indicators are combined to determine an overall numerical representation for the total amount indicator.")-see col. 8, lines 44-48;

obtaining a physical rating based on said total weighted score and a sum of said weight indicators -see Fig.21 (542) and col. 21, lines 57-63 and see col. 16, lines 49-60.

**Re claims 9-11:** Apgar discloses:

wherein said subject real estate property is an apartment complex, a single family home, a commercial property. ("Real



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Estate' means any real property, including, without limitation, office retail and industrial rental space, a building...")-see col. 1, line 64-col. 2, line 3.

**Claim 51** has similar limitations found in claim 6 above, and therefore is rejected by the same art and rationale.

**Re claim 52:** Apgar discloses wherein the plurality of factors is a plurality of physical factors ("Grade is an indicator of the quality of facility.")-see col. 11, lines 21-30

**Re claim 53:** Apgar discloses wherein the plurality of factors is a plurality of location factors ("Area is an indicator of the economic attractiveness of the submarket in which the Business Entity is located. Evaluation (Submarket Ranking) is based on Rents, Vacancy, and Absorption rates, transportation and infrastructure measures, demographic profiles...")-see cp;/ 12 lines 32-67.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the

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art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dugan in view of Three (*Three More Companies Become WebLink Wireless Enterprise Solutions Partners: Datamatic, LynkUs and VoiceLink Join 19 Other Companies in Wireless Data Effort*. Pr Newswire, New York: May 4, 2000. pg.1).

**Re claim 3:** Dugan does disclose:

a subscriber database for storing data relating to subscribers to said system. Three however, shows ('LynkUs.com is a developer of Web-based services specifically for wireless subscribers. Through the ESP program, LynkUs plans to develop wireless data content for several industries. One key project, for the real estate industry, will provide wireless links to the Multiple Listing Service so realtors can access listings from their wireless devices, even when they're out of the office.") - see p.2, para. 2. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Dugan to include allowing only subscribers to access a database such as the Multiple Listing Service shown by Three in

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order to provide a secure and controlled means of accessing data.

5. Claims 7,12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Apgar.

**Re claim 7:** Apgar discloses:

multiplying each factor score for each of said plurality of physical factors by said weight indicator attributed to said each of said plurality of physical factors to obtain a weighted score for said each of said plurality of physical factors -see col. 2, line 67-col. 3, line 2 and col. 8, lines 44-48 and cols. 7-15(Amount, Price, Grade);

dividing said plurality of physical factors into a plurality of sets having a number of physical factors, wherein said weight indicators of each of said plurality of physical factors in said each of said plurality of sets are equal-see Fig. 21 (512-520) (Amount, Price, Grade), (522-530) Weight Factor; ("Amount is an indicator of space utilization by a Business Entity of the selected real estate location. The amount evaluation is based primarily on at least one of two measures: (I)the square-footage per employee(SF/Employee) and/or (II) the sales per square foot..."-see col. 7, lines 15-19; and

see similar descriptions for measures relating to other indicators i.e. Price, Grade, Area in cols. 8-13.

for each of said plurality of sets, adding said weighted scores for each of said plurality of physical factors in said each of said sets to obtain a total score for said each of said plurality of sets-see fig. 21, col.16, lines 49-60, col.21, lines 57-63;

Although Apgar discloses an weighted scores for each indicator and a total weighted score as a rating in Fig. 21, Apgar does not specifically disclose:

dividing each of said total scores for each of said plurality of sets by said number of physical factors in said each of said plurality of sets to obtain an average score for said each of said plurality of sets;

adding said average scores for each of said plurality of sets to obtain a total weighted score.

Official Notice is taken that it is old and well known in the art of Finance that weighted averages are commonly used to arrive at a comprehensive number representing proportions of multiple elements. For example, weighted averages are commonly used in the valuing the cost of capital. Therefore, It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Apgar to include

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calculating a weighted average score in order to provide the user with another means of determining a value to be used as a total indicator.

**Re claim 12:** Apgar does not specifically disclose:

converting said physical rating to an alphabetic score.

Official notice is taken that it is old and well known in the art that converting a numerical score to an alphabetical score is common. For example, it is common for teachers to grade tests using a numerical score and then convert the score into a corresponding alphabetic score i.e. 90-100=A. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Apgar to include converting a numerical rating to an alphabetical one in order to provide a rating that may be easier for the user to understand and make a quick association to its meaning.

6. Claims 8, 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Apgar in view of Dugan.

**Re claim 8:** Apgar does not specifically disclose adding said weighted indicators of said plurality of sets of physical factors to obtain a total weight indicator. Dugan however, shows ("The total possible IPS value for any property is 100...")-see

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col. 5, lines 3-4, and see Figs. 6a, 6c, 6g, 6i, 6k ("Total Competitive standard's ratio = (100)");

dividing said total weighted score by said total weight indicator to obtain a physical score. -see Dugan Fig. 7i, ("Total Standard Units 79%, 59%, 92%"). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Apgar to include adding the individual possible IPS values for a property to obtain a total possible IPS value and dividing the total weighted score for each comparable property as well as the subject property to obtain a percentage representing a score as was done by Dugan in order to provide the user with another representation of the comparison data.

**Re claim 13:** Claim 13 has similar limitations found in claim 6, 7, and 8 in combination, and is therefore rejecting using the same art and rationale.

**Re claims 14-17** have similar limitations found in claims 9-12 above and are therefore rejected using the same art and rationale.

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7. Claims 42-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dugan as applied to claim 41 above, further in view of Apgar.

**Re claim 42:** Dugan does not specifically disclose:

obtain said physical rating for said one of said plurality of real estate properties by obtaining a total weighted score based on said factor scores associated with each of said plurality of physical factors of said one of said plurality of real estate properties and said weight indicators associated with each of said plurality of physical factors of said one of said plurality of real estate properties. Apgar however, discloses a total weighted score based on indicator scores, indicator scores being adjusted by weighting factors .- see cols. 7-11, (indicators: amount, price, and grade), and fig. 21.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Dugan to include total weighted score based on indicator scores, indicator scores being adjusted by weighting factors as shown by Apgar in order to calculate a rating on real estate properties.

**Re claim 43:** Dugan does not specifically disclose:

multiplying each of said factor scores associated with each of said plurality of physical factors of said one of said

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plurality of real estate properties by said weight indicator associated with said each of said plurality of physical factors to obtain a plurality of weighted factor scores. Apgar discloses ("Weighting Factor" is used to denote an empirically determined adjustment for each indicator, indicator component or measure used in the score to reflect the indicator's relative importance in the overall evaluation. 'Measure' is used to denote a quantitative and qualitative fact and/or calculation from data about a Business Entity's real estate situation used to determine values for score indicators.") --see col. 2, line 67-col. 3, line 5 and col. 8, lines 44-48 and cols. 7-15(Amount, Price, Grade);;

summing said plurality of weighted factor scores to obtain a total weighted score- see fig. 21 and col. 16 lines 49-60..

**Re claim 44:** Dugan discloses:

wherein said processor is configured to obtain said physical rating by summing said weight indicators to obtain a total weight indicator ("The total possible IPS value for any property is 100...")-see col. 5, lines 3-4, and see Figs. 6a, 6c, 6g, 6i, 6k ("Total Competitive standard's ratio = (100)";

and dividing said total weighted score by said total weight indicator.-see Fig. 7i, ("Total Standard Units 79%, 59%, 92%").



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8. Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dugan.

**Re claims 45:** Dugan does not disclose

converting said physical rating to an alphabetic score.

Official notice is taken that it is old and well known in the art that converting a numerical score to an alphabetical score is common. For example, it is common for teachers to grade tests using a numerical score and then convert the score into a corresponding alphabetic score i.e. 90-100=A. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Dugan to include converting a numerical rating to an alphabetical one in order to provide a rating that may be easier for the user to understand and make a quick association to its meaning.

#### ***Response to Arguments***

9. Regarding the applicant's argument that claim 1 is generic, upon further consideration, the Examiner agrees with the applicant. It is noted that claim 1 is generic. Upon allowance of the generic claim, any non-elected claims dependant from the allowed generic claim will be rejoined.

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent No. 6,609,118 (Khedkar et al.) cited for methods and systems for automated property valuation.

US Patent No. 6,178,406 (Cheetham et al.) cited for a method for estimating the value of real property.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elda Milef whose telephone number is (571)272-8124. The examiner can normally be reached on Monday - Thursday 9:15 am to 5:45 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung Sough can be reached on (571)272-6799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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**FRANTZY POINVIL**  
**PRIMARY EXAMINER**  
*AN 3628*